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Deputy Attorney General Testifies on USA PATRIOT Act

WASHINGTON, D.C. – Members of the House Permanent Select Committee on Intelligence on Wednesday heard testimony from Deputy Attorney General James B. Comey, Jr. regarding renewal and possible modification of the USA PATRIOT Act provisions within its jurisdiction, primarily the Foreign Intelligence Surveillance Act (FISA) and the sharing of information between intelligence and law enforcement agencies.

The hearing covered the necessity of striking the proper balance between the need to collect information on potential terrorists while protecting the civil liberties of law-abiding American citizens.

Because of an evacuation of the Capitol, the hearing concluded for the day following the testimony of Comey. A second panel of outside experts will be rescheduled for the week of May 16.

“The Act provides enhanced but carefully tailored authorities to support intelligence and terrorism investigations, usually targeted against foreign powers and agents of foreign powers,” said U.S. Rep. Pete Hoekstra (R-MI), Chairman of the House Intelligence Committee. “What the PATRIOT Act is not, either in intent or practice, is a license for the government to invade the privacy of ordinary citizens or to violate civil liberties.”

Perhaps the most significant provision in the PATRIOT Act was Section 218, which broke down barriers to the sharing of information between intelligence agencies and law enforcement.

“It destroyed once and for all ‘the wall,’ which was a combination of law and lore, that separated criminal investigators from intelligence investigators chasing terrorists. ... That has made us safe in ways that really – that my words can’t capture,” Comey said.

The Deputy Attorney General covered the challenges of convincing the public of the need for the terrorism prevention tools contained in the law when the objective is to disrupt an operation in its planning stages, not when an attack is about to be carried out.

“You want to catch a terrorist with his hands on the check instead of his hands on the bomb,” Comey testified in his written remarks. “You want to be many steps ahead of the

devastating event. The way we do that is through preventive and disruptive measures, by using investigative tools to learn as much as we can as quickly as we can and then incapacitating a target at the right moment.”

Comey further addressed how Section 215 of the law extends to intelligence and terrorism investigations authorities to request certain records that may already be obtained in criminal cases through grand jury subpoenas. These include credit card records, apartment leasing records and travel records. Section 215 orders require an extensive application process and approval by a federal judge.

“Section 215 of the USA PATRIOT Act allows the FBI to obtain an order from the FISA Court requesting production of any tangible thing, such as business records, if the items are relevant to an ongoing authorized national security investigation...,” Comey stated in his remarks. “The provision explicitly prohibits the government from conducting an investigation of a U.S. person based solely upon protected First Amendment activity.”